IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 17988 of 2004

Between:

Smt. Sabirunnissa, W/o. S.A. Sattar, Mine Owner
S.A.Sattar Barytes Mine, Khagithalapenta, Cuddapah Town & District.

... PETITIONER

AND

1 The Regional Labour Commissioner, (Central) A.T.I. Complex,
Vidyanagar, Hyderabad.
2 The Controlling Authority Under

P.G.Act & Assistant Labour Commissioner (Central), Vijayawada -2.
3 The District Collector, Cuddapah, Cuddapah District.
4 M. Venkata Rao, S/o. M.Rama Swamy,
Vinjamoor Post, Nellore District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 3rd respondent in seeking to initiate the action under the provisions of Revenue Recovery Act, 1864 through the Letter of Endorsement in Ref. D1/1334/2004, dated 31.07.2004 for payment of the gratuity amount of Rs. 47,312/- along with interest awarded by the 2nd respondent vide his orders dated 20.05.1996 in Case No.58 of 1994, pending adjudication of the appeal filed by me on the file of the 1st respondent as highly arbitrary, illegal, contrary to the due process of law, the provisions of Payment of Gratuity Act and violative of the principles of natural justice apart from violative of the fundamental rights guaranteed to the petitionr under Article 14 of the Constitution of India and consequently set aside the same

Counsel for the Petitioner: MR.V.R.REDDY KOVVURI

Counsel for the Respondents 1 to 3:GP FOR LABOUR MR.A.RAJASEKHARA REDDY SC FOR CG

The Court made the following order:

ORDER:

The petitioner is the owner of a Mine. The father of the fourth respondent worked as a Mines Manager in the Mines of the petitioner and died on 24.12.1993. The fourth respondent filed a claim petition in Case No.58 of 1994 before the second respondent for payment of gratuity amount for the service rendered by his late father. The second respondent passed an award on 20.05.1996 for Rs.47,312/- towards gratuity amount payable to the father of the fourth respondent.

The petitioner contends that aggrieved by the order of the second respondent he preferred a statutory appeal before the first respondent on 10.08.1996. But till today the first respondent did not pass any order on the appeal preferred by the petitioner. Petitioner received a letter dated 16.06.2004 from the office of the third respondent regarding payment of the amount covered by the award and directed him to submit his explanation within seven days from the date of receipt of the notice failing which orders will be issued for attachment of his properties under the Provisions of Revenue Recovery Act, 1864 (for short 'the Act').

Petitioner submitted his reply on 05.07.2004 stating that the appeal preferred by him is pending with the first respondent. The pendency of the appeal before the first respondent is no ground for the petitioner to avoid payment of the amount covered by the award in Case No.58 of 1994.

Petitioner seeks a direction to declare the action of the third respondent to initiate proceedings under the Act for recovery of the amount covered by the award as arbitrary, illegal and contrary to the due process of law.

Though the petitioner claims that he preferred an appeal before the first respondent on 10.08.1996 he did not obtain any orders of stay of the award. The third respondent, therefore, cannot be said to have exercised his right seeking recovery of the amount covered by the award illegally. So long as the award is in force the third respondent is at every liberty to recover the amount under the Act.

Since the petitioner contends that the appeal preferred by him on 10.08.1996 is pending with the first respondent I am inclined to give a direction to the first respondent for the disposal of the appeal.

In the light of the above circumstances, the petitioner is not entitled for the relief of declaration that the proceedings of the third respondent dated 31.07.2004 as illegal and arbitrary. But in view of the representation of the petitioner, the first respondent is directed to trace out the appeal preferred by the petitioner on 10.08.1996 and pass appropriate orders on it if the orders are not already passed and if the orders are already passed, to communicate a copy of the orders to the petitioner within eight weeks from the date of receipt of this order.

The writ petition is accordingly disposed of. No order as to costs.

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Dr. G. YETHIRAJULU, J

October 6, 2004

Dsk

Note:

Furnish Copy in three days

(B/o)

Dsk

To

1 The Regional Labour Commissioner, (Central) A.T.I. Complex, Vidyanagar, Hyderabad.
2 The Controlling Authority Under

P.G.Act & Assistant Labour Commissioner (Central), Vijayawada -2.
3 The District Collector, Cuddapah, Cuddapah District.

4 Two CCs to GP For Labour, High Court Buildings, Hyderabad (OUT).

5 Two CD Copies.